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Via Electronic Mail Delivery

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Re: *Written Ex Parte Communication*
Wireless Local Number Portability Implementation
CC Docket No. 95-116

Gentlemen:

Sprint Corporation below responds to the "Rural Wireless Local Number Portability Guidelines" that the Rural Wireless Working Group ("RWWG") submitted to the Commission on August 25, 2003.¹ As Sprint demonstrates below, many of these Guidelines are unlawful on their face because they are incompatible with the FCC's wireless LNP rule.

The RWWG asserts that its Guidelines will ensure that rural wireless carriers will be "in compliance with Commission WLNP obligations."² RWWG states that it does "not request or require Commission action" and that it is rather submitting the Guidelines "as a courtesy" in order to provide "notice of the development of the Rural Guidelines."³ According to RWWG, its Guidelines "relieve the Commission of the need to take additional action on these matters in order to implement WLNP in rural areas."⁴

¹ Ex Parte Presentation of the Rural Wireless Working Group re Rural Wireless Number Portability Guidelines, CC Docket No. 95-116 (Aug. 25, 2003) ("RWWG Ex Parte"). The RWWG includes three associations – the National Telecommunications Cooperative Association ("NTCA"); the Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO"); and the Rural Telecommunications Group ("RTG") – and three law firms: Kurtis & Associates; Blooston, Mordkofsky, Dickens, Duffy and Prendergast; and Bennet & Bennet.

² RWWG Ex Parte at 2.

³ *Id.* at 2.

⁴ *Ibid.*

Sprint agrees that carriers, individually or collectively, can develop implementation guidelines that “fill the gaps” left open by the FCC’s LNP rules.⁵ Carriers may not, however, impose conditions on the availability of LNP that are inconsistent with the FCC’s LNP rules.

RWWG would give the impression it can adopt whatever LNP guidelines it wants because, it asserts, there are “no FCC-adopted rules implementing WLNP.”⁶ In fact, there is a WLNP rule: 47 C.F.R. § 52.31. This rule states that:

- “By November 24, 2003, all covered CMRS providers must provide a long-term method for number portability in the 100 largest MSAs . . . in switches for which another carrier has made a specific request for the provision of number portability,” so long as the request is made “by February 24, 2003;”⁷ and
- “After November 24, 2003, a covered CMRS provider must deploy number portability in additional switches upon request within the following time frames” specified in this rule (*i.e.*, within 30 to 180 days depending upon the type of switch involved).⁸

This rule contains no restrictions on the availability of LNP other than receipt of a bona fide request, with the date of the request determining when a wireless carrier must begin providing LNP to the requesting carrier. In this regard, the Commission recently reaffirmed that “covered CMRS providers by November 24, 2003 are required to make number portability available within specified time-frames after a specific request by another telecommunications carriers in the areas in which the requesting carrier is operating or plans to operate.”⁹ The Commission further clarified the contents of an LNP request:

Requesting telecommunications carriers must specifically request portability, identify the discrete geographic area covered by the request, and provide a tentative date by which the carrier expects to utilize number portability to port prospective customers.¹⁰

Rule 52.31 also specifies the one way that a wireless carrier can be excused from meeting the deadlines specified in the rules:

The Chief, Wireless Telecommunications Bureau, may waive or stay any of the dates in the implementation schedule, as the Chief determines is necessary to en-

⁵ Of course, such carrier-developed guidelines remain subject to the “just and reasonable” standard contained in Section 201(b) of the Act, and unreasonable guidelines can be challenged in a Section 208 complaint.

⁶ RWWG Ex Parte at 1.

⁷ 47 C.F.R. §§ 52.31(a) and (a)(1)(ii). LNP requests may be made by “[a]ny wireline carrier that is certified (or has applied for certification) to provide local exchange service in a state, or any licensed CMRS provider.” *Id.* at § 52.31(a)(1)(i).

⁸ *See id.* at § 52.31(a)(iv).

⁹ *Fourth Report and Order*, CC Docket No. 95-116, FCC 03-126, at ¶ 10 (June 18, 2003).

¹⁰ *Ibid.*

sure the efficient development of number portability, for a period not to exceed 9 months¹¹

Rule 52.31 further identifies the factual showing required before the Commission will entertain a rule waiver.¹² The WLNP rule is thus clear: the only way that a wireless carrier can be excused from providing WLNP on the dates specified in the rule is to obtain Commission authorization, whether by a rule a waiver or stay.

Many of the RWWG Guidelines address restrictions on the availability of porting, pre-conditions not contained in the FCC's rules. For example, RWWG states that its members will not honor port requests unless the requesting carrier:

- “[A]grees to indemnify” the old service provider for “any unpaid account balance or termination fee;”¹³
- Has “an Interconnection Agreement in place;”¹⁴
- Maintains “numbering resources in the same rate center;”¹⁵
- Maintains unspecified “facilities” in the rate center;¹⁶ and
- Submits a written Letter of Acknowledgement executed by the porting customer that meets all of the requirements that RWWG members specify.¹⁷

According to RWWG, its members will not provide LNP within the time frames specified in the wireless LNP rule unless the requesting carrier meets these additional eligibility requirements that RWWG has decided unilaterally to impose.¹⁸

The additional eligibility restrictions that RWWG has developed are not compatible with the wireless LNP rule, which requires the provision of LNP by a specified time based upon receipt of a LNP *bona fide* request. As such, these restrictions are unlawful on their face. If RWWG members want to include additional eligibility restrictions such as those contained in its Guidelines that would otherwise excuse them from providing LNP on the dates specified in Rule 52.31, they must first obtain explicit Commission authorization as provided for in this Rule.

¹¹ 47 C.F.R. § 51.31(c).

¹² *See id.* at § 51.31(d).

¹³ *See Rural Wireless Guideline* at ¶ 4.2.

¹⁴ *See id.* at ¶ 1.10.

¹⁵ *See id.* at ¶ 1.3.

¹⁶ *See ibid.*

¹⁷ *See id.* at ¶ 5.1.

¹⁸ RWWG states that its Guidelines are “voluntary” (Ex Parte at 2), which suggests that RWWG members have decided to retain the flexibility to impose yet additional eligibility restrictions that further limit the ability of their customers to port to other carriers.

Pursuant to Section 1.1206(b) of the Commission's rules, Sprint Corporation is filing one copy of this letter with the Secretary's office for filing in CC Docket No. 95-115.

Respectfully submitted,



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